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U.S. Department of Homeland Security
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Washington, DC 20529

U.S. Citizenship and Immigration Services

[redacted]

FILE: WAC 02 163 53957 Office: CALIFORNIA SERVICE CENTER Date: JUL 12 2004

IN RE: Petitioner: [redacted]
Beneficiary:

PETITION: Petition for a Nonimmigrant Worker Pursuant to Section 101(a)(15)(L) of the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(L)

ON BEHALF OF PETITIONER:

[redacted]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The Director, California Service Center, denied the petition for a nonimmigrant visa. The matter is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be summarily dismissed.

The petitioner is a restaurant that currently employs the beneficiary as its service manager. It seeks to employ the beneficiary for an additional three years, and filed a petition to extend the classification of the beneficiary as a nonimmigrant intracompany transferee. The director denied the petition concluding that the beneficiary was not employed in the U.S. entity in a primarily managerial or executive capacity.

On appeal, the petitioner restates four of the beneficiary's job duties as they relate to managerial capacity that had already been provided for the record. The petitioner contends that two service managers, in addition to the beneficiary, "with exactly the same duties and function [sic] that the beneficiary has today," were previously approved for employment with the petitioning organization under the L-1A classification. The petitioner submits copies of the approved I-129 visa petitions as evidence.

The regulation at 8 C.F.R. § 103.3(a)(l)(v) states, in pertinent part:

> An officer to whom an appeal is taken shall summarily dismiss any appeal when the party concerned fails to identify specifically any erroneous conclusion of law or statement of fact for the appeal.

In the present matter, the petitioner merely outlined four of the beneficiary's job duties that had already been addressed by the director in his decision. The petitioner did not state that the director was incorrect in his interpretation of the facts. The petitioner has therefore failed to identify any particular fact that was not properly considered by the director in making his decision.

In addition, the petitioner's claim that the approval of previous petitions involving the same job duties as the beneficiary's position qualifies the beneficiary for the classification sought has no merit. The director's decision does not indicate whether he reviewed the prior approvals. If the previous nonimmigrant petitions were approved based on the same vague and unsupported assertions that are contained in the current record, the approval would constitute material and gross error on the part of the director. The AAO is not required to approve applications or petitions where eligibility has not been demonstrated, merely because of prior approvals that may have been erroneous. *See, e.g. Matter of Church Scientology International*, 19 I&N Dec. 593, 597 (Comm. 1988). It would be absurd to suggest that CIS or any agency must treat acknowledged errors as binding precedent. *Sussex Engg. Ltd. v. Montgomery*, 825 F.2d 1084, 1090 (6th Cir. 1987), *cert. denied*, 485 U.S. 1008 (1988).

Furthermore, the AAO's authority over the service centers is comparable to the relationship between a court of appeals and a district court. Even if a service center director had approved the nonimmigrant petitions on behalf of the beneficiary, the AAO would not be bound to follow the contradictory decision of a service center. *Louisiana Philharmonic Orchestra v. INS*, 2000 WL 282785 (E.D. La.), *aff'd*, 248 F.3d 1139 (5th Cir. 2001), *cert. denied*, 122 S.Ct. 51 (2001)." Consequently, the petitioner failed to identify any precedent case law that would support a finding that the director applied an erroneous conclusion of law in his decision.

In visa petition proceedings, the burden of proving eligibility for the benefit sought remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Inasmuch as the petitioner has failed to identify

specifically an erroneous conclusion of law or a statement of fact as a basis for this appeal, the regulations mandate the summary dismissal of the appeal.

ORDER: The appeal is summarily dismissed.